



**THOMAS L. GARTHWAITE, M.D.**  
Director and Chief Medical Officer

**FRED LEAF**  
Chief Operating Officer

COUNTY OF LOS ANGELES  
DEPARTMENT OF HEALTH SERVICES  
313 N. Figueroa, Los Angeles, CA 90012  
(213) 240-8101

BOARD OF SUPERVISORS

**Gloria Molina**  
First District

**Yvonne Brathwaite Burke**  
Second District

**Zev Yaroslavsky**  
Third District

**Don Knabe**  
Fourth District

**Michael D. Antonovich**  
Fifth District

July 28, 2005

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF PROVIDER ENROLLMENT APPLICATION TO PARTICIPATE IN THE  
MEDICARE MODERNIZATION ACT (MMA) SECTION 1011 PROGRAM FOR FEDERAL  
REIMBURSEMENT OF EMERGENCY MEDICAL SERVICES PROVIDED TO  
UNDOCUMENTED IMMIGRANTS  
(ALL DISTRICTS – 3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

Approve and instruct the Director of Health Services, or his designee, to sign the MMA Provider Enrollment Application with the Centers for Medicare and Medicaid Services (CMS) to participate in, and claim for, federal reimbursement of emergency services provided to undocumented immigrants.

**PURPOSE OF THE RECOMMENDED ACTION**

The purpose of the recommended action is to authorize the Department of Health Services (Department) to participate in the MMA Section 1011 program that was approved by CMS on May 9, 2005.

**IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The Department's participation in the MMA Section 1011 program is consistent with the Fiscal Responsibility goals of the County.

## **JUSTIFICATION**

Participation in the MMA Section 1011 program creates an opportunity for the County to recover a portion of its costs to provide emergency medical treatment to the undocumented immigrants receiving care under the Emergency Medical Treatment and Active Labor Act (EMTALA).

## **FISCAL IMPLICATIONS**

The fiscal reimbursement plan authorized under MMA Section 1011 establishes \$1.0 billion to provide \$250 million per year to all 50 states and the District of Columbia for Federal Fiscal Years (FFY) 2005-2008. California is expected to receive approximately \$70.8 million for claimable services in FFY 2005. However, the estimated amount of revenue that the County will receive cannot be determined at this time because the claiming guidelines issued by CMS are not clear. This makes it difficult to determine what portion of the County's costs to provide emergency medical treatment to undocumented immigrants is claimable. In addition, it is expected that total claims for all California eligible providers will exceed the \$70.8 federal allotment which could result in partial claim payments on a pro rata basis. Therefore, the County's revenue accruing from participation in this program will be affected by the total amount of claims submitted by all providers in the State.

## **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The authorization that the Department seeks will permit the County to be reimbursed for some portion of the costs associated with providing emergency treatment to undocumented immigrants. The MMA requires the federal Department of Health and Human Services to establish a process by which eligible providers, such as the County, may request these payments. This Provider Enrollment Application is the result of that mandate.

The Department is seeking clarification from CMS on several conditions of participation. These include requirements to indirectly verify the immigration status of all potential MMA Section 1011 patients by making a "good faith effort" to obtain copies of foreign birth certificates, drivers' licenses, invalid social security numbers, etc. CMS has indicated they will provide answers to provider questions (in the form of a FAQ section on their website) but has not provided a date by when this information will be available. Once a determination is made that a patient is eligible for the program, a Department representative must attest to the validity of the patient's information and status as an "undocumented alien." It is important to note that Section 1011 regulations specifically prohibit asking patients if they are undocumented.

CMS appointed TrailBlazer Health Enterprises, LLC as the designated federal fiscal intermediary on July 7, 2005. This appointment is expected to facilitate the development of claiming and billing requirements which have not yet been determined. Claiming for Section 1011 reimbursement extends 180 days from the close of the FFY quarter in which the services were provided (claims for the Third Quarter FFY 2005 are due by December 30, 2005). Individual claims must be sent (electronically) to the designated federal fiscal

The Honorable Board of Supervisors  
July 28, 2005  
Page 3

intermediary (TrailBlazer) and are subject to medical and eligibility documentation compliance review. Payments of initial claims for the Third Quarter FFY 2005 are targeted for March-April 2006 or later. Due to federally-imposed state caps in allowable reimbursement, payments may likely be reduced on a pro-rata basis if there are insufficient funds to meet all claim demands. CMS has indicated California's FFY 2005 Section 1011 allocation is approximately \$70.8 million.

**CONTRACTING PROCESS**

Not applicable.

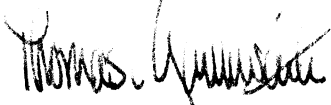
**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The Department, in consultation with the CAO, CMS, the National Association of Public Hospitals (NAPH), and others, has decided to recommend participation in this program despite some significant reservations regarding individual patient eligibility and uncertainties related to claiming requirements in the current MMA Section 1011 language. On June 1, 2005 the Department activated a methodology by which to identify potential Section 1011 eligibility for inpatient ER admissions and is in the process of evaluating how best to implement the program for ER visits.

Departmental representatives have been participating in national and regional conference calls with CMS, NAPH, and others, and have witnessed similar reservations voiced by participating providers throughout the Country. The Department is awaiting CMS release of answers to the several critical questions we and other providers have asked that will provide the necessary clarification we are seeking. We will provide periodic reports and recommendations to the Board as information is developed, i.e., operational impact of CMS FAQ, TrailBlazer claim/billing requirements, continued participation in the program, etc.

When approved, DHS requires three signed copies of the Board's action.

Respectfully submitted,



Thomas L. Garthwaite, M.D.  
Director and Chief Medical Officer

TLG:LG:tf (R:\1\FORD\MMA SEC 1011\BOARD LETTER-Final 072205)

c: Chief Administrative Officer  
County Counsel  
Executive Officer, Board of Supervisors  
Treasurer-Tax Collector